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BURTON A. AMERNICK
CONNOLLY BOVE LODGE & HUTZ LLP
1990 M STREET, N.W.
SUITE 800
WASHINGTON, DC 20036-3425

In re Application of SUGIOKA et al :
Application No.: 10/516,695 :
PCT Application No.: PCT/JP03/06176 :
Int. Filing Date: 19 May 2003 : DECISION ON PETITION
Priority Date Claimed: 24 May 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: 21581-00334-US1 :
For: FIRE RETARDANT RESIN COMPOSITION, :
METHOD OF ITS PRODUCTION, SHAPED :
ARTICLES COMPRISING THE SAME, AND :
SILICA :

Applicants' Petition For Revival Under 37 CFR 1.137(b), filed in the United States Patent and Trademark Office (PTO) on 02 December 2004 is GRANTED.

BACKGROUND

On 19 May 2003, applicants filed international application PCT/JP03/06176. The international application claims a priority date of 24 May 2002 and designates the United States. A copy of the international application was communicated from the International Bureau to the United States Patent and Trademark Office on 04 December 2003. The deadline for paying the basic national fee in the United States was thirty months from the priority date, that is 24 November 2004. Applicants missed this deadline.

On 02 December 2004, applicants filed the instant petition for revival accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international application as required by 35 U.S.C. 371(c)(2), and the petition fee of \$1370.

On 06 January 2005, applicants submitted an executed declaration as required by 35 U.S.C. 371(c)(4).

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) a statement that the entire delay in filing the required reply

from the due date for the reply until the filing of a grantable petition was unintentional, (3) the petition fee required by law, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). A payment of the basic national fee constitutes a proper reply for entry into the national stage.

Applicant's statement in the petition that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR §1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3). The submission of the national fee and the copy of the international application satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.


CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is GRANTED as to the National Stage in the United States of America.

Applicant has satisfied the requirements under 35 U.S.C. 371.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.


Amy Vanatta
PCT Legal Administration Detailee
Telephone: 571-272-6094
Facsimile: 571-273-0419


Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration